

### REMARKS

In response to the Office Action mailed on August 2, 2007, Applicants amended the specification to disclaim priority to U.S. Patent Application Serial No. 10/232,265. Applicants also amended the specification to maintain the incorporation by reference of this application. In addition, Applicants amended claims 1, 15, 27, and 33. Claims 1, 3-15, 17-27, 29-33, and 35-37 are presented for examination.

The Examiner rejected claims 1, 3-10, 13-15, 17-24, 26, 27, and 29-32 under 35 U.S.C. §103(a) as being unpatentable over Smith et al., US 5,888,930 ("Smith") in view of Gray, PCT/AU2001/001370 ("Gray"), in view of Kaminski et al., US 6,015,542 ("Kaminski"). As amended, claims 1, 3-10, 13-15, 17-24, 26, 27, and 29-32 cover particles that include a cross-linked polymer matrix. Smith does not disclose or suggest such particles. Instead, Smith discloses a particle made of a polymer that is soluble in a suitable solvent and insoluble in water. (See, e.g., Smith, col. 2, line 67 to col. 3, line 5.) Smith discloses making particles by a process that involves dissolving a polymer in a solvent other than water, spraying droplets of the resulting solution into a stirred precipitation bath that contains water, collecting the particles, and drying the particles. (See, e.g., Id., col. 3, lines 60-67.) As would be understood by one skilled in the art, Smith's process does not involve forming a cross-linked polymer matrix, and there is no suggestion to modify Smith's process to provide a particle that includes a cross-linked polymer matrix. Neither Gray nor Kaminski cure Smith's deficiencies. None of Smith, Gray or Kaminski discloses or suggests the particles covered by claims 1, 3-10, 13-15, 17-24, 26, 27, and 29-32, and there is no suggestion to combine these references to provide such particles. Applicants therefore request reconsideration and withdrawal of this rejection.

The Examiner rejected claims 1, 3-6, 11-15, 17-24, 26, 27, and 29-32 under 35 U.S.C. §103(a) as being unpatentable over Smith in view of Gray in further view of Ajay K. et al., *Extended preoperative polyvinyl alcohol microembolization of intercranial meningiomas: assessment of two embolization techniques*, AJNR 14, 571-582 (1993) ("Ajay"). As amended, claims 1, 3-6, 11-15, 17-24, 26, 27, and 29-32 cover particles that include a cross-linked polymer matrix. As explained above, neither Smith nor Gray, alone or in combination, discloses or

suggests such particles. Ajay does not cure the deficiencies of Smith and/or Gray. None of Smith, Gray, or Ajay, discloses or suggests the particles covered by claims 1, 3-6, 11-15, 17-24, 26, 27, and 29-32, and there is no suggestion to combine these references to provide the particles covered by these claims. Applicants therefore request that this rejection be reconsidered and withdrawn.

The Examiner rejected claims 1, 3-6, 13-15, 17-24, 26-27, 29-32, 33, and 35-37 under 35 U.S.C. §103(a) as being unpatentable over Smith in view of Gray in further view of Atcher et al., US 4,970,062 ("Atcher"). As amended, claims 1, 3-6, 13-15, 17-24, 26-27, 29-32, 33, and 35-37 cover particles that include a cross-linked polymer matrix. As discussed above, neither Smith nor Gray, alone or in combination, discloses or suggests such particles. Atcher does not cure the infirmities of Smith and/or Gray. None of Smith, Gray, or Atcher, discloses or suggests the particles covered by claims 1, 3-6, 13-15, 17-24, 26-27, 29-32, 33, and 35-37, and there is no suggestion to combine these references to provide the particles covered by these claims. Applicants therefore request that this rejection be reconsidered and withdrawn.

The Examiner rejected to claims 1, 3-15, 17-27, 29-33, and 35-37 on the ground of nonstatutory obviousness-type double patenting, citing eight commonly owned patent applications. In view of the other rejections to claims 1, 3-15, 17-27, 29-33, and 35-37, Applicants ask that these rejections be held in abeyance.

Applicants believe that the claims are in condition for allowance, which action is requested.

Please apply any other charges or credits to deposit account 06-1050, referencing Attorney Docket No. 01194-458001.

Applicant : DiMatteo et al.  
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Page : 11 of 11

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Respectfully submitted,

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